

AMENDMENTS TO THE DRAWINGS

The attached replacement sheets of drawings include changes to Figures 1 through 12. These replacement sheets replace the original sheets as filed.

Attachment: Replacement Sheets

REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. The claims remaining in the present application are Claims 1-24. Claims 1-24 are rejected. Claims 1-4, 9-12 and 17-20 are amended. No new matter has been added.

DOUBLE PATENTING REJECTION

Claims 1-24 are provisionally rejected under the judicially created (nonstatutory) doctrine of obviousness-type double patenting as being unpatentable over Claims 1-24 of co-pending U.S. Patent Application No. 09/902,928. A terminal disclaimer in compliance with 37 CFR §1.321 is being submitted concurrent with the instant response, thereby obviating the double patenting rejection.

OATH/DECLARATION

Applicants wish to thank Examiner for indicating that the declaration as filed is defective because it does not identify the citizenship of inventor Tongwei Lui. Applicants are perfecting a replacement declaration, which will follow this filing.

DRAWINGS

The drawings are objected to because the pages of the drawing sheets are not numbered, the headings are not in a large enough font, and the element "Internet 1099" of Figure 10 is not clear. Corrected drawing sheets in which these objections are corrected are submitted herewith and are in compliance with 37 CFR 1.121(d).

SPECIFICATION

The Abstract is objected to because it exceeds 150 words. The Abstract is amended herein to overcome the objection.

CLAIM REJECTIONS - 35 U.S.C. §112, second paragraph

Claims 2-4, 10-12 and 18-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the limitations “said bids data” of Claims 2, 4, 10, 12, 18 and 20 and “said auction characteristics data” of Claims 3, 11 and 19 lack sufficient antecedent bases. Claims 2-4, 10-12 and 18-20 are amended herein to correct the insufficiency of antecedent basis. Therefore, Applicants respectfully assert that Claims 2-4, 10-12 and 18-20, as amended, overcome the rejection under 35 U.S.C. § 112, second paragraph.

CLAIM REJECTIONS - 35 U.S.C. §102(e)

Claims 1, 3, 6, 9, 11, 14, 17, 19 and 22 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,871,190 by Seymour et al., hereinafter referred to as the “Seymour” reference. Applicants have reviewed the cited reference and respectfully submit that the present invention as recited in Claims 1, 3, 6, 9, 11, 14, 17, 19 and 22 is not anticipated by Seymour for the following rationale.

Applicants respectfully direct the Examiner to independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A method for determining an auction format for a market, said method comprising the steps of:
selecting characteristics of said market;
selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market;
estimating a structure of said market;
predicting a bidding behavior;
predicting a first outcome of said market; and
evaluating said first outcome of said market.

Independent Claims 9 and 17 recite similar limitations. Claims 3 and 6 that depend from independent Claim 1, Claims 11 and 14 that depend from independent Claim 9, and Claims 19 and 22 that depend from independent Claim 17 provide further recitations of the features of the present invention.

Applicants respectfully assert that Seymour and the claimed invention are very different. According to the Federal Circuit, “[a]nticipation requires the disclosure in a single prior art reference of each claim under consideration” (*W.L. Gore & Assocs. v. Garlock Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983); see also MPEP 2131). However, it is not sufficient that the reference recite all the claimed elements. As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “arranged as in the claim” (emphasis added; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984); see also *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); see also MPEP 2131). In other words “[t]he identical invention must be shown in as complete detail as is contained in the ...claim” (emphasis added; *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); see also MPEP 2131).

Seymour and the claimed invention are very different. Applicants understand Seymour to teach an interactive auction system that automatically generates a selling strategy based on input relating to the merchandise to be auctioned (col. 2, lines 41-43). In particular, Seymour teaches that selling strategy is generated based solely on information input into the system by sellers.

With reference to Figure 5 of Seymour, at step 204, data is entered into the system by a seller concerning the item the seller wishes to sell. This information includes the minimum price the seller is prepared to accept (col. 6, lines 46-52). At step 206, an optimum auction type for the auction is generated based on the input data by a selling strategy generator (col. 6, lines 56-64). In particular, the bidding strategy generator generates the optimal value based on data input by the user. Applicants respectfully submit that Seymour does not teach, describe or suggest that the bidding strategy generator generates the optimal bid “selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market”, as claimed (emphasis added).

In contrast, the claimed embodiment recites “selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market” (emphasis added). Applicants respectfully submit that Seymour teaches the selection of an optimal auction format on the basis of data input into the interactive system by a seller. Applicants respectfully submit that Seymour is silent as to the use of bidder behavior in selecting an optimal auction format. In particular, Applicants respectfully submit that Seymour does not describe, teach or suggest “selecting a relevant bidding model specifying bidder behavior” as claimed. Moreover, Seymour is silent to the use of the use of “information held privately by a bidder” in selecting an optimal auction format.

Furthermore, Applicants respectfully submit that Seymour does not describe, teach or suggest “predicting a bidding behavior” as claimed. In contrast, Applicants respectfully submit that a bidding strategy is selected based on specific data input by a bidder and that a selling strategy is selected based on specific data input by a

seller (col. 5, lines 11-15). Accordingly, Seymour does not predict behavior of a bidder, as the bidder's behavior is either explicitly entered by the bidder, thus not predicted, or is not considered as it is not input by the seller. In particular, Applicants respectfully submit that Seymour is silent as to the use of "bidding behavior", as claimed.

Also, Applicants respectfully submit that Seymour does not describe, teach or suggest "predicting a first outcome of said market" and "evaluating said first outcome of said market" as claimed. Examiner cites col. 6, lines 56-59, in supporting the rejection of these limitations. Applicants respectfully submit that the determination of an optimal auction format, as disclosed in the citation, does not anticipate "predicting a first outcome of said market" and "evaluating said first outcome of said market" as claimed. In particular, Applicants respectfully assert that the reference is silent to predicting an outcome and is silent as to evaluating the outcome.

Therefore, Applicants respectfully assert that nowhere does Seymour teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 9 and 17, that these claims overcome the rejection under 35 U.S.C. § 102(e), and are thus in a condition for allowance. Applicants respectfully submit that Seymour also does not teach or suggest the additional claimed features of the present invention as recited in Claims 3 and 6 that depend from independent Claim 1, Claims 11 and 14 that depend from independent Claim 9, and Claims 19 and 22 that depend from independent Claim 17. Therefore, Applicants respectfully submit that Claims 3, 6, 11, 14, 19 and 22 also overcome the rejection under 35 U.S.C. § 102(e), and are in a condition for allowance as being dependent on allowable base claims.

CLAIM REJECTIONS - 35 U.S.C. §103(a)

Claims 2, 5, 10, 13, 18 and 21

Claims 2, 5, 10, 13, 18 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Seymour in view of U.S. Patent No. 6,285,989 by Shoham, hereinafter referred to as the “Shoham” reference. Claims 2 and 5 are dependent on independent Claim 1, Claims 10 and 13 are dependent on independent Claim 9, and Claims 18 and 21 are dependent on independent Claim 17. Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 2, 5, 10, 13, 18 and 21 is not unpatentable over Seymour in view of Shoham for the following rationale.

As described above, Seymour and the claimed invention are very different. Applicants understand Seymour to teach that an optimal bidding strategy determination is based solely on data input by the user. Applicants respectfully submit that Seymour does not teach, describe or suggest that the bidding strategy generator generates the optimal bid “selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market”, as claimed (emphasis added).

Specifically, Applicants respectfully submit that Seymour teaches the selection of an optimal auction format on the basis of data input into the interactive system by a seller. Applicants respectfully submit that Seymour is silent as to the use of bidder behavior in selecting an optimal auction format. In particular, Applicants respectfully submit that Seymour does not describe, teach or suggest “selecting a relevant bidding model specifying bidder behavior” as claimed. Moreover, Seymour is silent to the use of the use of “information held privately by a

bidder” in selecting an optimal auction format. In contrast, Applicants respectfully submit that by determining an optimal auction format on the basis of information solely entered by the seller, Seymour teaches away from “selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market”, as claimed.

Furthermore, Applicants respectfully submit that Seymour does not describe, teach or suggest “predicting a bidding behavior” as claimed. In contrast, Applicants respectfully submit that a bidding strategy is selected based on specific data input by a bidder and that a selling strategy is selected based on specific data input by a seller (col. 5, lines 11-15). Accordingly, Seymour does not predict behavior of a bidder, as the bidder’s behavior is either explicitly entered by the bidder, thus not predicted, or is not considered as it is not input by the seller. In particular, Applicants respectfully submit that Seymour is silent as to the use of “bidding behavior”, as claimed.

Moreover, the combination of Seymour and Shoham fails to teach or suggest this claim limitation because Shoham does not overcome the shortcomings of Seymour. Applicants understand Shoham to teach a universal auction specification system (Abstract). Applicants respectfully submit that Seymour does not teach, describe or suggest that the bidding strategy generator generates the optimal bid “selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market”, as claimed (emphasis added).

Therefore, Applicants respectfully assert that nowhere does the combination of Seymour in view of Shoham teach, disclose or suggest the claimed embodiments of the

present invention as recited in independent Claims 1, 9 and 17, that these claims overcome the rejection under 35 U.S.C. § 103(a), and are thus in a condition for allowance. Applicants respectfully submit the combination of Seymour in view of Shoham also does not teach or suggest the additional claimed features of the present invention as recited in Claims 2 and 5 are dependent on independent Claim 1, Claims 10 and 13 are dependent on independent Claim 9, and Claims 18 and 21 are dependent on independent Claim 17. Therefore, Applicant respectfully submits that Claims 2, 5, 10, 13, 18 and 21 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on allowable base claims.

Claims 4, 7, 8, 12, 15, 16, 20, 23 and 24

Claims 4, 7, 8, 12, 15, 16, 20, 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Seymour. Claims 4, 7 and 8 are dependent on independent Claim 1, Claims 12, 15 and 16 are dependent on independent Claim 9, and Claims 20, 23 and 24 are dependent on independent Claim 17. Applicants have reviewed the cited references and respectfully submit that the present invention as recited in Claims 4, 7, 8, 12, 15, 16, 20, 23 and 24 is not unpatentable over Seymour for the following rationale.

As described above, Seymour and the claimed invention are very different. Applicants understand Seymour to teach that an optimal bidding strategy determination is based solely on data input by the user. Applicants respectfully submit that Seymour does not teach, describe or suggest that the bidding strategy generator generates the optimal bid “selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market”, as claimed (emphasis added).

Specifically, Applicants respectfully submit that Seymour teaches the selection of an optimal auction format on the basis of data input into the interactive system by a seller. Applicants respectfully submit that Seymour is silent as to the use of bidder behavior in selecting an optimal auction format. In particular, Applicants respectfully submit that Seymour does not describe, teach or suggest “selecting a relevant bidding model specifying bidder behavior” as claimed. Moreover, Seymour is silent to the use of the use of “information held privately by a bidder” in selecting an optimal auction format. In contrast, Applicants respectfully submit that by determining an optimal auction format on the basis of information solely entered by the seller, Seymour teaches away from “selecting a relevant bidding model specifying bidding behavior as a function of information held privately by a bidder and said characteristics of said market”, as claimed.

Furthermore, Applicants respectfully submit that Seymour does not describe, teach or suggest “predicting a bidding behavior” as claimed. In contrast, Applicants respectfully submit that a bidding strategy is selected based on specific data input by a bidder and that a selling strategy is selected based on specific data input by a seller (col. 5, lines 11-15). Accordingly, Seymour does not predict behavior of a bidder, as the bidder’s behavior is either explicitly entered by the bidder, thus not predicted, or is not considered as it is not input by the seller. In particular, Applicants respectfully submit that Seymour is silent as to the use of “bidding behavior”, as claimed.

Therefore, Applicants respectfully assert that nowhere Seymour teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 9 and 17, that these claims overcome the rejection under 35 U.S.C. § 103(a), and are thus in a condition for allowance. Applicants respectfully submit that Seymour

also does not teach or suggest the additional claimed features of the present invention as recited in Claims 4, 7 and 8 are dependent on independent Claim 1, Claims 12, 15 and 16 are dependent on independent Claim 9, and Claims 20, 23 and 24 are dependent on independent Claim 17. Therefore, Applicant respectfully submits that Claims 4, 7, 8, 12, 15, 16, 20, 23 and 24 also overcome the rejection under 35 U.S.C. § 103(a), and are in a condition for allowance as being dependent on allowable base claims.

CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1-24 overcome the rejections of record. Therefore, allowance of Claims 1-24 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Dated: 6/12, 2006

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